

**REMARKS**

Claims 8-10 and 22-25 were pending in the above-identified patent application when last examined and were finally rejected. Claims 8 and 22 are amended. No new matter is being added by virtue of this response.

In item 1, page 2 of the above Office Action, the Examiner rejected claims 8-10 and 22-25 under 35 U.S.C. § 103(a) is being unpatentable over Admitted Prior Art in view of Katsura et al, U.S. Patent 5,223,315 (hereinafter "Katsura"). Applicant respectfully traverses.

The Examiner asserted that "the Admitted Prior Art on page 1 of the Specification discloses the conventional placement of a label on a semi-permeable plastic container", and that the "Admitted Prior Art discloses generally all of the elements of the claims ...".

The Examiner admitted that the alleged Admitted Prior Art fails to disclose a metalized layer on the label, but asserted that Katsura figure 1-B shows a print layer 3 attached to a metal layer 5 which is bonded to the container, and Katsura figure 1-C shows a print layer 3 attached to a metal layer 5a which is attached to a lower polymeric layer 2a.

The Examiner also apparently admitted that the alleged Admitted Prior Art fails to disclose "the abidance of adhesive between the metallic layer and the container", but rejected claims 8 and 22 of the instant Application as failing to claim how the metallic layer is bonded to the external container surface, and as failing to contain any negative limitation that prevents the claims from reading on the above combination. The Examiner also asserted that "the bonding between the metallic layer and the container surface of Katsura et al *is* by heating polymeric material to the container using such material as specified on page 6, line 11 of the specification" (emphasis added).

The Examiner reasoned that Katsura is properly combinable with the alleged Admitted Prior Art "to prevent the wrinkle and the bulge on the label."

Applicants respectfully disagree.

The Examiner agreed to a short interview, the substance of which is discussed in the following. Applicants appreciate the Examiner's clarification of the rejections.

During the interview, the Examiner admitted that the basis for rejecting claim 8 was the Examiner's disagreement with Applicants' choice of the term "directly" to include "without adhesive". The basis for rejecting claim 22 was similarly the Examiner's disagreement with Applicants' choice of the term "bonded to the external surface" in describing "a metallic layer". The Examiner also stated that the combination of the alleged Admitted Prior Art and Katsura - both of which use adhesive, as already argued- would be overcome by adding a further negative limitation to claims 8 and 22 to exclude the use of an adhesive (such as "without adhesive").

Regarding claims 8, 9-10 and 23-25, Applicants point out that even the Examiner apparently understood the above intended use of the term "directly". Applicants also point out that *The New Webster Encyclopedia Dictionary of the English Language* (1971) concurs with Applicants that "directly" means "instantly" and "expressly", and thus clearly excludes an adhesive. Applicants further point to the specification, which clearly states that "the techniques described... *do not use adhesives...*" (page 6, lines 19-21) (emphasis added).

The term "directly" was also selected to avoid rejection of the claims due to the use of a negative limitation. However, while redundant, claim 8 has been amended as the Examiner suggested in order to proceed toward allowance. Claim 8, as amended, now recites "... a metallic layer bonded directly, without adhesive, to the external surface."

Accordingly, for at least the foregoing reasons, claim 8 is patentable over the combination of the "Admitted Prior Art" and Katsura. Claims 9-10 and 23-25 further depend from claim 8 and are patentable over the combination of the "Admitted Prior Art" and Katsura for at least the same reasons that claim 8 is patentable over the combination of the "Admitted Prior Art" and Katsura. Withdrawal of the rejections is therefore respectfully requested.

Regarding claim 22, Applicants again point out the above statement from the specification, as well as even the title of the invention. As was already argued, both the alleged Admitted Prior Art and Katsura use an adhesive. The alleged Admitted Prior Art is set forth in detail on page one of the specification. Katsura also clearly uses an adhesive with regard to each of the cited figures (e.g. see the FIG. 1-B discussion at col. 7, lines 62-63 and the FIG 1-C discussion at col. 8, lines 7-8 describing "thermoplastic adhesive layer 4").

While the Examiner notes a possibility of using polypropylene or polyethylene, both the “Admitted Prior Art” and Katsura are completely unconcerned with the potential for contamination from the use of adhesives. Katsura, for example, uses a metallic element merely “to impart a metallic gloss to the label and improve the decorative effect” (col. 7, 19-22). There is also no indication that the especially thin, shrinkable foil would operate as the Examiner suggests. (Katsura, for example, discusses how ordinary foil cannot be used at col. 7, line 27). The Katsura “laundry list” of primarily epoxy bonding materials would further hardly have suggested to one skilled in the art at the time of the invention the concerns, let alone the claimed bonding of the instant Application, as the Examiner postulates.

However, while redundant, claim 22 has been amended as the Examiner suggested in order to proceed toward allowance. Claim 22, as amended, now recites “... a metallic layer bonded directly, without adhesive, to the external surface.”

Accordingly, for at least the foregoing reasons, claim 22 is patentable over the combination of the “Admitted Prior Art” and Katsura. Withdrawal of the rejection is therefore respectfully requested.

Therefore, for at least the foregoing reasons, Applicants request reconsideration and withdrawal of the above rejections. Early allowance of all pending claims of the instant Application is respectfully solicited.

Applicants further renew all arguments already raised but not repeated herein. Applicants also renew their objection to the issuance of the above *Final* Office Action under MPEP § 703.07(a) on the basis of new grounds for rejection allegedly raised by adding the “pharmaceutical bottle,” “IV bag” and “plastic-wrapped food package” of claims 23-25. Rather, the Examiner, and not the Applicants, raised any new grounds for rejection. Applicants still further remind the Examiner that a Response After Final was not filed, and an RCE and Response With RCE were instead filed, at the Examiner’s request and assurances that a Final Office Action would not be issued.

Attached hereto is a marked-up version of the changes made by the current response, which is captioned “**Version With Markings To Show Changes Made.**”

If for any reason an insufficient fee has been paid, the Examiner is hereby authorized to charge the insufficiency to Deposit Account No. 05-0150.

If the Examiner has any questions or needs any additional information, the Examiner is invited to telephone the undersigned attorney at 650-843-8796.

Date: 11/12/01

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Respectfully submitted,

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**Version With Markings To Show Changes Made**

**In the claims:**

The *EXISTING* claims have been amended as follows:

8. (Once Amended) A safe container, comprising:

a semi-permeable container having a polymeric external surface; and  
a metallic layer bonded, without adhesive, to the external surface.

22. (Once Amended) A method comprising:

obtaining a semi-permeable container having an external surface and having a metallic  
layer bonded directly, without adhesive, to the external surface; and  
coupling a printed layer to the metallic layer.